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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/198,018	11/23/98	ASTLE	T 130-125
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021091 IM62/0324
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EXAMINER

BEX, P

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 03/24/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/198,018

Applicant(s)
Thomas W. Astel

Examiner
Patricia Kathryn Bex

Group Art Unit
1743



☒ Responsive to communication(s) filed on Nov 23, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-29 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-29 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-18 and 21-23, drawn to a method and apparatus for chemical compound storage, classified in class 436, subclass 44.
 - II. Claims 19-20 and 24-25, drawn to a method and apparatus for performing a biological assay, classified in class 435, subclass 287.9.
 - III. Claims 26-29, drawn to a liquid aspirating/dispensing device, classified in class 422, subclass 100.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because, the chemical compound storage apparatus of Group I does not require permitting a reagent receiving wells to incubate at a predetermined temperature for a predetermined time or performing a biological analysis on each of the reagent receiving wells as disclosed in Group II for patentability. The subcombination has separate utility such as multiwell plate.

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3. Inventions III and I, II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions. The invention of Group III is a liquid aspirating/dispensing device, such as pipette. The inventions of I and II are methods and apparatus for chemical compound storage and performing biological assays, respectively.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. A telephone call was made to John H. Crozier on March 21, 2000 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Kathryn Bex whose telephone number is (703) 306-5697.

The fax number for the organization where this application or proceeding is assigned is (703) 305-7718 for official papers prior to mailing of a Final Office Action. For official papers after mailing of a Final Office Action, use fax number (703) 305-3599. For unofficial or draft

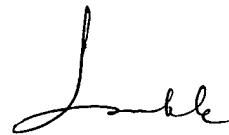
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papers use fax number (703) 305-7719. Please label all faxes as official or unofficial. The above fax numbers will allow the paper to be forwarded to the examiner in a timely manner.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



P. Kathryn Bex
Patent Examiner
AU 1743
March 21, 2000



LONG V. LE
PRIMARY EXAMINER

AU. 1743